

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: August 28, 2009

Electronic Signature for Jill Gorny Sloper: /Jill Gorny Sloper/

Docket No.:CDJ-166RCE2  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Patent Application of:  
Yashwant M. Deo *et al.*

Patent No.: 7,563,876  
(USSN: 09/851,614)

Confirmation No.: 4957

Issued: July 21, 2009

Art Unit: 1644

For: HUMAN MONOCLONAL ANTIBODIES TO  
DENDRITIC CELLS

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Examiner: Ewoldt, Gerald R.

MS Patent Extension  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR  
RECONSIDERATION UNDER 37 CFR §1.705(b) and (d)**

Dear Sir:

1. This is a request for reconsideration of the patent term adjustment (hereinafter “PTA”) of 613 days indicated on the face of the issued patent. It is respectfully requested that Patentees be granted a minimum patent term adjustment of **1170 days**.

2. In compliance with 37 CFR §1.705(d), Patentees submit herewith a “Statement Under 37 CFR §1.705(b)(2)”.

3. In accordance with 37 CFR §1.705(d), Patentees hereby authorize the fees set forth in 37 CFR §1.705(b)(1). Please charge the fee set forth in 37 CFR §1.18(e) (\$200.00) to our Deposit Order Account No. 12-0080. Please charge any necessary additional fees or credit any overpayments to our Deposit Order Account No. 12-0080.

Dated: August 28, 2009

Respectfully submitted,

By /Jill Gorny Sloper/  
Jill Gorny Sloper  
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Attorney For Patentees

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**STATEMENT UNDER 37 CFR § 1.705(b)(2)**

Dear Sir:

1. This statement is respectfully submitted in support of the “Application for Patent Term Adjustment Including Request for Reconsideration Under 37 CFR §1.705(b) and (d)” for the above-referenced patent. In view of the following, it is respectfully requested that Patentees be granted a minimum patent term adjustment of **1170 days**.

2. The patent term adjustment as shown on the face of the issued patent is 613 days. A copy of the PTO’s Patent Term Adjustment calculation (“PTA Sheet”) available on Private Pair is also submitted herewith as Exhibit A. Patentees respectfully submit that the determination of 613 days of patent term adjustment is incorrect for the reasons discussed below.

3. The factual bases for the above adjustment are set forth as follows:

**A. Examination Delays Pursuant to 37 CFR §1.702 and §1.703**

Pursuant to 37 CFR §1.703(f), the period of adjustment of the term of the patent under §1.702 is the sum of the periods of examination delay calculated under subparagraphs (a)-(e), to the extent that such periods are not overlapping, less the sum of the periods calculated under §1.704 (the period of Patentee Delay). In the above-referenced application, Patentees are entitled to a period of examination delay equal to the sum of the periods of delay under §1.703(a) and (b) for the reasons set forth below.

(i) “14 Month Delay” Pursuant to §1.703(a)(1)

In accordance with 37 CFR §1.703(a)(1), Patentees are entitled to a period of patent term adjustment due to the failure by the Office to mail an action under 35 U.S.C. §132 not later than 14 months after the actual filing date (*i.e.*, by July 8, 2002). As shown in Exhibit A, the Office failed to mail an action under 35 U.S.C. §132 (a Restriction Requirement) until July 14, 2004. As such, Patentees are entitled to a period of patent term adjustment beginning July 9, 2002 and ending on July 14, 2004, the date of mailing of the Restriction Requirement by the Office. Accordingly, the period of patent term adjustment due to the 14 Month Delay by the Office is **737 days**. This is consistent with the PTA Sheet (Exhibit A) from the Office.

(ii) “Three Years Delay” Pursuant to 37 CFR §1.703(b)

The Office did not comply with the requirement of 35 U.S.C. §154(b) and 37 CFR §1.702(b), which requires issuance of a patent within 3 years after the date on which the patent was filed under 35 U.S.C. §111(a). However, since the exclusionary period for continued examination set forth in 37 CFR §1.702(b)(1) applies to the instant patent, the number of days in the period beginning on the date on which Patentees first filed a Request for Continued Examination (January 23, 2006) and ending on the issue date of a corresponding patent (July 21, 2009), *i.e.*, 1276 days, is excluded from the period of Three Years Delay. Therefore, in accordance with 37 CFR §1.703, Patentees have calculated a maximum period of Three Years Delay based on the period of time beginning on the day after the date that is three years after the date on which the above-referenced patent was filed (*i.e.*, May 9, 2004), and ending on the date Patentees first filed a Request for Continued Examination (*i.e.*, January 23, 2006). This period of delay is **624 days**.

(iii) “4 Month PTO to Issue Patent” Pursuant to 37 CFR 1.702(a)(4)

Patentees respectfully submit that an additional period of examination delay of **268 days** accrued for the failure of the Office to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C 151 and all outstanding requirements were satisfied, as required by 37 CFR 1.702(a)(2). As shown in Exhibit A, the Office did not issue a patent until July 21, 2009. As such, Patentees are entitled to a period of patent term adjustment beginning October 27, 2008 and ending on July 21, 2009, the date the patent was issued by the Office. Accordingly, the period of patent term adjustment due to the 4 Month Delay by the Office is **268 days**. This is consistent with the PTA Sheet (Exhibit A) from the Office.

**Calculation of Total Period of Examination Delay Pursuant to 37 CFR §1.703(f)**

As set forth in 37 CFR §1.703(f), the period of examination delay based on the grounds set forth in 37 CFR §1.702 is the sum of the period of 14 Month Delay (737 days), the minimum period of Three Years Delay (624 days), and the 4 Month PTO Issue a Patent Delay (268 days) or 1629 days, to the extent these periods of delay are not overlapping. In this regard, Patentees respectfully submit that the only overlap that occurs is the period of the 14 Month Delay and the Three Year Delay overlap between May 8, 2004 through July 14, 2004, *i.e.*, by 67 days. Accordingly, the sum of the total examination delays (1629) is reduced by the period of overlap (67 days), resulting in a total examination delay of **1562 days**.

**B. “Patentee Delay” Pursuant to 37 CFR §1.704**

Pursuant to 37 CFR §1.704 the period of adjustment of the term of the patent due to examination delay is reduced by the period of Patentee Delay. Patentees have calculated a Patentee Delay of **392 days**. This is consistent with the PTA Sheet (Exhibit A) from the Office.

**C. Calculation of Correct Patent Term Adjustment Pursuant to 37 CFR §1.702(f)**

As set forth in 37 CFR §1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of examination delays reduced by the period of Patentee Delay. Therefore, Patentees submit that the correct patent term adjustment for the above-referenced patent is **1170 days**, which is the difference between the total period of examination delay (1562 days) and the Patentee Delay (392 days).

4. In accordance with 37 CFR§1.705(b)(2)(iii), Patentees submit that the patent is not subject to a terminal disclaimer.

US Patent No: 7,563,876  
(USSN 09/851,614)

Group Art Unit: 1644

Dated: August 28, 2009

Respectfully submitted,

By /Jill Gorny Sloper/  
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(617) 742-4214 (Fax)  
Attorney For Patentee












## EXHIBIT A

09/851,614 HUMAN MONOCLONAL ANTIBODIES TO DENDRITIC CELLS 08-21-2009::15:42:44




























### Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 09/851,614			
Filing or 371(c) Date:	05-08-2001	USPTO Delay (PTO) Delay (days):	1005
Issue Date of Patent:	07-21-2009	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	300
Post-Issue Petitions (days):	+0	Total PTA (days):	613
USPTO Adjustment(days):	-92	Explanation Of Calculations	

### Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
07-01-2009	PTA 36 Months		
07-21-2009	Patent Issue Date Used in PTA Calculation	268	
06-24-2009	Dispatch to FDC		
06-19-2009	Dispatch to FDC		
06-15-2009	Mail-Record a Petition Decision of Granted for Patent Term Adjustment after Allowance		
06-15-2009	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance		
06-15-2009	Record a Petition Decision of Granted for Patent Term Adjustment after Allowance		
06-14-2009	Adjustment of PTA Calculation by PTO		94
06-14-2009	Adjustment of PTA Calculation by PTO		
06-14-2009	Adjustment of PTA Calculation by PTO		30
06-14-2009	Adjustment of PTA Calculation by PTO		
06-14-2009	Adjustment of PTA Calculation by PTO	13	
06-14-2009	Adjustment of PTA Calculation by PTO		
06-14-2009	Adjustment of PTA Calculation by PTO	19	
06-14-2009	Adjustment of PTA Calculation by PTO		
06-26-2008	Petition Entered		
07-10-2008	Dispatch to FDC		
07-03-2008	Application Is Considered Ready for Issue		
06-26-2008	Issue Fee Payment Verified		
06-26-2008	Issue Fee Payment Received		
05-01-2008	Sequence Forwarded to Pubs on Tape		

## EXHIBIT A

04-17-2008	Mail Notice of Allowance		
04-14-2008	Document Verification		
04-14-2008	Notice of Allowance Data Verification Completed		
02-13-2008	Date Forwarded to Examiner		
01-23-2008	Response after Non-Final Action		
01-04-2008	Mail Non-Final Rejection		
01-03-2008	Non-Final Rejection		
11-15-2007	Date Forwarded to Examiner		
11-15-2007	Date Forwarded to Examiner		
10-24-2007	Request for Continued Examination (RCE)		
11-15-2007	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		
10-24-2007	Request for Extension of Time - Granted		
10-24-2007	Miscellaneous Incoming Letter		
10-24-2007	Workflow - Request for RCE - Begin		
09-05-2007	Correspondence Address Change		
08-30-2007	Mail Advisory Action (PTOL - 303)		
08-28-2007	Advisory Action (PTOL-303)		
08-20-2007	Date Forwarded to Examiner		
08-15-2007	Amendment/Argument after Notice of Appeal		
06-29-2007	Notice of Appeal Filed		87
06-29-2007	Request for Extension of Time - Granted		
07-30-2004	Information Disclosure Statement considered		
07-30-2004	Information Disclosure Statement (IDS) Filed		
05-17-2007	Mail Advisory Action (PTOL - 303)		
05-14-2007	Advisory Action (PTOL-303)		
04-05-2007	Date Forwarded to Examiner		
03-27-2007	Amendment after Final Rejection		
01-03-2007	Mail Final Rejection (PTOL - 326)		
12-22-2006	Final Rejection		
09-29-2006	Information Disclosure Statement considered		
09-29-2006	Reference capture on IDS		
09-29-2006	Information Disclosure Statement (IDS) Filed		



## EXHIBIT A

09-29-2006	Information Disclosure Statement (IDS) Filed	
09-29-2006	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	
10-12-2006	Date Forwarded to Examiner	
09-29-2006	Response after Non-Final Action	92
09-29-2006	Request for Extension of Time - Granted	
03-29-2006	Mail Non-Final Rejection	
03-20-2006	Non-Final Rejection	
12-08-2005	Examiner Interview Summary Record (PTOL - 413)	
02-22-2006	Preliminary Amendment	
01-23-2006	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	
01-23-2006	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	
01-23-2006	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	
01-23-2006	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	
01-23-2006	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	
01-23-2006	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	
01-23-2006	Information Disclosure Statement considered	
01-30-2006	IFW TSS Processing by Tech Center Complete	
01-23-2006	Reference capture on IDS	
01-23-2006	Information Disclosure Statement (IDS) Filed	
01-23-2006	Information Disclosure Statement (IDS) Filed	
01-30-2006	Date Forwarded to Examiner	
01-30-2006	Date Forwarded to Examiner	
01-23-2006	Request for Continued Examination (RCE)	
01-30-2006	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)	
01-23-2006	Request for Extension of Time - Granted	
01-23-2006	Workflow - Request for RCE - Begin	

## EXHIBIT A

07-21-2005	Mail Final Rejection (PTOL - 326)		
07-18-2005	Final Rejection		
05-11-2005	Date Forwarded to Examiner		
05-03-2005	Response after Non-Final Action		89
05-03-2005	Request for Extension of Time - Granted		
11-03-2004	Mail Non-Final Rejection		
10-29-2004	Non-Final Rejection		
08-19-2004	Date Forwarded to Examiner		
08-13-2004	Response to Election / Restriction Filed		
10-29-2004	Mail-Record Petition Decision of Granted Related to Inventor in Application		
08-13-2004	Workflow incoming amendment IFW		
07-19-2004	Petition Entered		
07-19-2004	Oath or Declaration Filed (Including Supplemental)		
07-19-2004	Miscellaneous Incoming Letter		
07-02-2003	Preliminary Amendment		
07-19-2004	Workflow incoming petition IFW		
07-14-2004	Mail Restriction Requirement	737	
07-13-2004	Requirement for Restriction / Election		
12-19-2003	Correspondence Address Change		
10-08-2003	Date Forwarded to Examiner		
10-07-2003	Supplemental Response		13
10-08-2003	Date Forwarded to Examiner		
09-24-2003	Response to a Letter to Comply with the Sequence Rules		19
06-05-2003	Mail Letter Requiring CRF (Unreadable, Non- Compliant, Not Submitted)		
06-05-2003	CRF Diskette Unreadable / Did Not Comply / Required but Not Submitted		
07-01-2002	Information Disclosure Statement (IDS) Filed		
07-01-2002	Information Disclosure Statement (IDS) Filed		
02-25-2002	Information Disclosure Statement (IDS) Filed		
02-25-2002	Information Disclosure Statement (IDS) Filed		
12-15-2001	Case Docketed to Examiner in GAU		

## EXHIBIT A

11-08-2001 Application Dispatched from OIPE  
11-05-2001 Application Is Now Complete  
07-18-2001 Notice Mailed--Application Incomplete--  
Filing Date Assigned  
07-18-2001 Correspondence Address Change  
06-11-2001 CRF Is Good Technically / Entered into  
Database  
05-22-2001 IFW Scan & PACR Auto Security Review  
05-08-2001 CRF Disk Has Been Received by Preexam /  
Group / PCT  
05-08-2001 Initial Exam Team nn

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